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OFFICE OF THE  
EXECUTIVE SECRETARY

November 5, 2009

Sent via Email and Fax

Mr. Andrew McGilvray  
Executive Secretary  
Foreign-Trade Zones Board  
U.S. Department of Commerce  
Room 2111  
1401 Constitution Avenue, N.W.  
Washington, DC 20230

Re: Rebuttal Comments, Docket 20-2009

Dear Mr. McGilvray:

On behalf of Dow Corning Corporation, we provide the following rebuttal comments on Docket 20-2009.

Introduction:

During the hearing and comment period on the above referenced case, several commenters raised issues that Dow Corning will respond to in this rebuttal including:

- Globe Metallurgical Inc. ("Globe")
- United Steelworkers ("USW")
- Steel Manufacturers Association ("SMA")
- American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO")
- Committee to Support U.S. Trade Laws ("CSUSTL")

Many of the same issues were raised by multiple commenters. This rebuttal is intended to address the issues raised in multiple contexts by multiple commenters. The statements noted to identify the issues are for reference purposes only and should be considered examples. Dow Corning's responses to those statements are intended to address each instance in which the issues are raised.

Issues:

**1. Dow Corning will Decrease Purchases from Globe**

Dow Corning has continuously reiterated its need for U.S.-supplied silicon metal and that it would not pursue the foreign-trade zone ("FTZ") designation if it believed that domestic manufacturing of silicon metal would be negatively impacted.<sup>1</sup> Dow Corning has backed up this commitment to U.S. silicon metal manufacturing by entering into a joint venture acquisition with Globe Specialty Metal, Inc. ("GSM"). The official announcement was made on November 5, 2009, that Dow Corning will purchase a 49% share of Globe's Alloy, West Virginia plant and has committed to a long term supply contract for 49% of the output of this facility.<sup>2</sup> This long term relationship guarantees that Dow Corning will continue to buy from Globe in the U.S. at historical levels and should relieve any further concerns raised by Globe about continuing to be a long term strategic supplier to Dow Corning. Jeff Bradley, GSM's CEO, reiterated this statement in his press release: *"This strategic transaction strengthens and solidifies our Company's relationship with Dow Corning, a global leader in silicones and silicon-based technology and one of our largest customers. We expect the joint venture to facilitate an even higher level of cooperation with Dow Corning and look forward to working with them in the future."*<sup>3</sup>

**2. Core Purpose of FTZ Designation**

Globe asserts that the core purpose of Dow Corning's proposed subzone is to purchase and consume silicon metal from China and Russia that is sold at unfairly low, dumped prices, without paying antidumping duties on such imports.<sup>4</sup>

**Response:**

The core purpose of Dow Corning's proposed subzone is to be internationally competitive from a U.S. base of manufacturing. Dow Corning seeks to maintain and expand U.S. employment by being able to manufacture in the U.S. for both domestic and global sales.

Dow Corning has documented through various industry and government reports a sustained shortage of approximately 50% of U.S. produced silicon metal to

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<sup>1</sup> Import Administration Public Hearing Transcript dated September 1, 2009, Pages 17, 22, 109. Statements by Robert Hansen, Executive Vice President & General Manager Core Products Business, Dow Corning Corporation and Michael Searcy, Senior Global Strategic Procurement Manager, Dow Corning Corporation.

<sup>2</sup> See attached release dated November 5, 2009.

<sup>3</sup> *Id.*

<sup>4</sup> Globe Comment Page 2.

meet U.S. demands.<sup>5</sup> As a result, Dow Corning and all major manufacturers that rely on silicon metal must import silicon metal. As the largest producer of silicon metal, China is a primary source of supply to global manufacturers. While it is not financially feasible to utilize silicon metal subject to antidumping duty for U.S. sales, Dow Corning must have access to the same raw materials as foreign chemical producers in order to compete effectively for sales in foreign markets.

As detailed in Dow Corning's subzone application, significant silicones production capacity is being added in China that will compete directly with the products that Dow Corning makes in Kentucky. The very real threat to Dow Corning's U.S. operations is that instead of expanding exports, they will experience further global market share erosion undermining U.S. as well as export sales.

### 3. Impact on U.S. Supplier

Globe claims that it will be negatively and directly impacted if Dow Corning is granted a subzone including the ability to admit goods subject to antidumping duty to the FTZ for manufacture and re-export.

#### Response:

Page 48 of the subzone application includes the statement, "*Dow Corning has no intention to reduce or cease purchases from Globe as a result of FTZ status.*" As noted above, Dow Corning has made a long term commitment to Globe's Alloy, West Virginia manufacturing facility. The fact is that Dow Corning cannot rely on Globe silicon metal for export sales due to price competitiveness, even if it were available in sufficient quantity, which it is not. If Dow Corning does not have access to the same low priced raw materials as foreign producers, foreign sales will be lost and this will decrease U.S. manufacturing and U.S. jobs. Due to the overall shortage of silicon metal in the U.S., this is not an issue of displacement of U.S. goods, but rather expansion of total supply to attempt to capture foreign sales. The recent joint venture formed between Dow Corning and Globe ensures that Dow Corning will not displace domestic silicon metal, but will continue to purchase Globe's U.S.-produced silicon metal at historical levels. Globe is a valued supplier of Dow Corning and will not be *"seriously affected by the proposed activity."*<sup>6</sup> Dow Corning has a long history of demonstrated commitment to its U.S. employees and suppliers, especially Globe, and the recent purchase of 49% of Globe's Alloy, West Virginia plant announced November 5, 2009<sup>7</sup> will secure U.S. manufacturing and U.S. jobs.

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<sup>5</sup> CRU International Limited, CEH Marketing Research Reports, and Mineral Commodity Summaries by U.S. Geological Survey, U.S. Department of the Interior.

<sup>6</sup> Globe Comment Page 1.

<sup>7</sup> See attached release dated November 5, 2009.

At the same time, Dow Corning will never sole source silicon metal. While Globe references improvements made to prevent a specific incidence of short supply, force majeure and other supply disruptions require multiple sources of supply to mitigate these risks. For that reason, Dow Corning must maintain diversity of supply.

Globe goes into great detail in its comments<sup>8</sup> about the amount of material that Dow Corning purchases and consumes and the proposed remaining share for Globe if FTZ benefits are approved. The latest CRU data indicates that the Globe Alloy, West Virginia plant has a capacity of 67,500 MT.<sup>9</sup> By purchasing 49% of this plant's output or approximately 33,000 MT, Dow Corning ensures that domestic purchases from Globe at historical levels will be maintained.<sup>10</sup> We sincerely hope this action reassures Mr. Sizemore, and the other members of Local 8-89 of the United Steelworkers International Union, of our strong commitment to support U.S. jobs.

With respect to monitoring Dow Corning's commitments to purchase domestically produced silicon at historical levels, the U.S. Foreign-Trade Zones Board has the ability to monitor such commitments and market conditions and can review public interest criteria as necessary.

#### 4. Improper Purpose

Globe and others have asserted that the Dow Corning subzone application is designed to achieve an improper purpose that is contrary to public interest and inconsistent with U.S. trade law and policy.

##### Response:

Specific to antidumping policy, to question the propriety of the requested benefits for Dow Corning is to question the U.S. Foreign-Trade Zones Board Regulations themselves. Globe and others would like to change U.S. trade policy to adopt an outright prohibition on the ability to import products subject to antidumping duty without immediate payment of such duties. This is not consistent with U.S. trade law and policy and would undermine an important tool that allows U.S.-based manufacturers to compete globally without moving manufacturing offshore. It should also be noted that the ability to use material subject to antidumping duty

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<sup>8</sup> Globe Comments Pages 19 and 24.

<sup>9</sup> CRU International Ltd., "Silicon Production Cost Analysis", November 2009, Page 12.

<sup>10</sup> Globe Comments Page 24 wherein Globe references CRU data to support that Globe supplied 33,000 MT of chemical-grade silicon metal to Dow Corning in 2008.

without payment of antidumping duty for export is not limited to the FTZ program.<sup>11</sup>

Dow Corning's subzone application exemplifies the long history of congressional and federal intent to foster *"the creation and maintenance of employment through the encouragement of operations in the United States which, for Customs reasons, might otherwise have been carried on abroad."*<sup>12</sup> *"This objective is furthered particularly when zones assist exporters and reexporters, and usually when goods arrive from abroad in an unfinished condition for processing here rather than overseas."*<sup>13</sup> As previously stated, the purpose of Dow Corning's subzone application is to make sure that U.S. jobs are secured by making Dow Corning's U.S. manufacturing operations cost competitive in foreign markets.

Globe makes reference to the *Antidumping Statute* of 1921 stating that Congress, *"was concerned not only for the welfare of the owners of producing plants, but also for the welfare of the employees in such plants and the communities of which they are a part."*<sup>14</sup> However, this single statement from 1921 fails to consider the long congressional history of balancing the protection of certain domestic producers with maintaining the competitiveness of other U.S. producers exporting into foreign markets. The FTZ Act of 1934 followed the *Antidumping Statute* and was further amended in 1950 to specifically provide for manufacturing. Most recently in 1991, the U.S. Foreign-Trade Zones Board confirmed the need for balance by clarifying its regulations to make clear the government's intent with respect to treatment of products subject to antidumping duty that are admitted to FTZs. Nothing proposed by Dow Corning is contrary to either congressional intent or government policy.

Globe also references the antidumping law change of 1988 as evidence of Congress' intent to restrict FTZ benefits. The 1988 law change removed duty drawback benefits from products subject to antidumping duty. Congress did not, however, in any way restrict public interest based operations approved by the U.S. Foreign-Trade Zones Board. Further, the 1988 law change was known to the federal government when the 1991 revised Foreign-Trade Zones Board Regulations were promulgated, striking the correct balance between trade protection and manufacturing maintenance and attraction for the benefit of U.S. workers. The 1988 law change and the 1991 Foreign-Trade Zones Board Regulations were both in place when Globe applied for and received approval to

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<sup>11</sup> Goods subject to antidumping duty can be transshipped in bond, stored, manufactured and exported in bonded warehouses and under temporary importation bonds without payment of antidumping duty.

<sup>12</sup> Preamble to 15 CFR Part 400, FR Vol. 56, No. 195, Page 50790, Published October 8, 1991.

<sup>13</sup> *Id.*

<sup>14</sup> Globe Comments Page 6 Referencing H.R. Rep No. 1, 67<sup>th</sup> Cong., 1<sup>st</sup> Sess. 23-24 (1921).

use a FTZ to import products subject to antidumping duties in order to defer duty, manufacture and then eliminate duty on exports.<sup>15</sup>

Promotion of U.S. employment, U.S. manufacturing and U.S. exports are not an improper purpose, nor contrary to the public interest and are certainly not inconsistent with U.S. trade law and policy or the U.S. Foreign-Trade Zones Board Regulations. On the contrary, the type of FTZ application Dow Corning has filed represents the epitome of what the U.S. Foreign-Trade Zones Program is designed to do and maintains the historical balance between protecting certain domestic manufacturers while helping others compete in foreign markets.

#### 5. "Dumping" Violates U.S. Laws and WTO Rules

Opponents to Dow Corning's subzone application appeal to the U.S. Foreign-Trade Zones Board not to provide a mechanism to allow U.S. companies to *"buy product from companies that violate U.S. laws and WTO rules."*<sup>16</sup>

##### Response:

Companies that sell products into the U.S. that are subject to antidumping duties are not violating U.S. laws or World Trade Organization ("WTO") rules. Such products are not prohibited but rather such products are subject to additional duties upon entry for consumption into the U.S. There is absolutely no violation of U.S. law or WTO rules involved.

Generally, if a company exports a product at a price lower than the price it normally charges in its own home market, it is said to be dumping the product. The WTO recognizes that opinions differ as to whether or not dumping constitutes unfair competition and the many complexities of determining criteria such as "normal value" and "sales in the ordinary course of trade". *"The WTO Agreement does not pass judgment. Its focus is on how governments can or cannot react to dumping."*<sup>17</sup> The WTO further clarifies: *"This focus only on the reaction to dumping contrasts with the approach of the Subsidies and Countervailing Measures Agreement."*<sup>18</sup> The U.S. Antidumping Statute operates similarly, authorizing imposition of antidumping duties upon certain findings but not prohibiting importation or requiring imposition of antidumping duties upon physical arrival of goods into the U.S. prior to customs entry.<sup>19</sup>

<sup>15</sup> U.S. Foreign-Trade Zones Board Order 0992 dated July 10, 1998.

<sup>16</sup> Import Administration Public Hearing Transcript dated September 1, 2009, Page 128, Statement by David Hartquist, Committee to Support U.S. Trade Laws.

<sup>17</sup> [http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/agzm8\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/agzm8_e.htm).

<sup>18</sup> *Id.*

<sup>19</sup> 19 USC §1673.

FTZs are unique by design as recognized by Congress and the Import Administration. The 2009 Antidumping Manual describes FTZs as: *"designated sites licensed by the FTZ Board at which special Customs procedures may be used. FTZ procedures allow domestic activity involving foreign items to take place as if it were outside U.S. Customs territory, thus offsetting Customs advantages available to overseas producers who export in competition with products made here. For example, FTZ procedures allow the deferral of customs duties and federal excise taxes on imports until such time as the merchandise leaves the FTZ and enters the customs territory of the United States."*<sup>20</sup>

By co-existing in this manner, the combination of antidumping and FTZ policies strike the needed balance between protecting certain members of U.S. industry while allowing others to undertake activities that promote U.S. jobs, investments and exports. This balance represents sound and reasoned policy not a "distortion of U.S. laws."<sup>21</sup>

## 6. Lowest Cost Producer

On multiple occasions, Globe referred to itself as the lowest cost producer of silicon metal in the world.

### Response:

Regardless of whether Globe is the lowest cost producer of silicon metal, it is certainly not the lowest cost supplier. As one of only two U.S. companies producing silicon metal, Globe enjoys captive demand that it understandably desires to maintain. Although Globe may be a low cost Western World producer this is not reflected in U.S. market prices, which are the highest in the world.<sup>22</sup>

Furthermore, Globe is not the lowest cost producer of silicon metal in the world. The basis for Globe's statement is CRU International Limited ("CRU"), a metals industry consultant. According to Globe's 10-K Annual Report filed October 5, 2009, CRU characterized Globe as benefitting, *"from the lowest average operating costs of any large Western World producer."*<sup>23</sup> "CRU defines 'Western World' as all countries supplying or consuming silicon metal with the exception of

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<sup>20</sup> Import Administration, 2009 Antidumping Manual, Page 6 (emphasis added).

<sup>21</sup> Import Administration Public Hearing Transcript dated September 1, 2009, Page 128, Statement by David Hartquist, Committee to Support U.S. Trade Laws.

<sup>22</sup> CRU Monitor – Bulk Ferroalloys, October 2009, Page 7, Bulk Ferroalloy Prices – Silicon Metal, USA CRU Spot – Import.

<sup>23</sup> Globe Specialty Metals Inc. Form 10-K filed 10/05/09 for the period ending 06/30/09.

*China and the former republics of the Soviet Union, including Russia.*"<sup>24</sup> This is an important distinction from Globe's statement because CRU excluded the world's largest supplying country (China) of silicon metal when referring to Globe as a low cost producer.

CRU also calls attention to the fact that Globe as a supplier of silicon metal has much lower operating costs as compared to Dow Corning as a consumer of silicon metal. High investment and operating costs are a primary justification for Dow Corning's pursuit of FTZ benefits in order to use zone savings to offset costs and compete more effectively for exports from a U.S. base of manufacturing.

If Globe does view itself as the lowest cost producer in the world, it should be able to compete effectively with any other producer without need for protection or risk of injury.

## **7. Conflict of Interest**

Thomas Danjczek, President, SMA testified at the September 1, 2009 hearing and failed to disclose his role as a Director of Globe.

### **Response:**

The FTZ benefits Dow Corning has applied for have no bearing whatsoever on the SMA other than the fact that Globe is a member and the SMA, like Globe, would like to change existing trade policy. Mr. Danjczek's comments at the hearing should have included full disclosure of his capacity as a Director and beneficial owner of Globe. It is interesting to note that no other members or representatives of the SMA were present at the hearing or filed comments in opposition to Dow Corning's application. We ask the FTZ Board to consider the personal position of Mr. Danjczek in weighing his comments.

## **8. MPM FTZ Approval Ramifications**

Globe's claims related to MPM Silicones, LLC ("MPM") have been effectively refuted by MPM.

### **Response:**

Without restating the comments submitted by Sydney Mintzer, Mayer Brown on behalf of MPM, we ask the U.S. Foreign-Trade Zones Board to review carefully the facts as presented by MPM. These facts vary greatly from those depicted by opponents of Dow Corning's FTZ application during the hearing on September 1,

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<sup>24</sup> *Id.*



2009, which mischaracterized the public benefits and purposes of the U.S. FTZ Program. Globe did not lose sales to MPM as a result of MPM's use of the FTZ Program and Globe affiliated plants in the U.S. will not lose sales to Dow Corning as a result of Dow Corning's use of the FTZ Program.

## **9. Globe Imports and Produces Abroad**

On page 127 of the September 1, 2009 hearing transcript, David Hartquist, Executive Director, Committee to Support U.S. Trade Laws ("CSUSTL") testifying in favor of Globe stated: *"It is a rare manufacturer in the United States today that can source all of his components or raw materials entirely in the U.S. Globe seems to do that pretty well, when almost everybody else has to buy something abroad."*<sup>25</sup>

### **Response:**

The comment by Mr. Hartquist demonstrates a lack of knowledge of the facts surrounding this case and the case history of the U.S. Foreign-Trade Zones Board. Based on PIERS<sup>26</sup> data, Globe reportedly imported an estimated value of \$44,634,295 in 2008 alone. Globe applied for and received authority from the U.S. Foreign-Trade Zones Board to import product subject to antidumping duties for manufacturing and export. This is the same exact activity that Globe now opposes for Dow Corning. Globe received no opposition to its subzone case in 1998. None of the opposition to the Dow Corning application opposed the exact same benefits when they were applied for and received by Globe in 1998.

Globe also holds a 70% ownership interest in Ningxia Yonvey Coal Industrial Co., Ltd. ("Yonvey") located in China. Yonvey produces carbon electrodes, an important input in Globe's production process. Globe consumes the majority of Yonvey's output of electrodes.<sup>27</sup> Globe imports and has invested in production material plants abroad, presumably to be competitive. Dow Corning has to import some of its raw material due to its demand and is applying for FTZ benefits to be competitive in support of its U.S. investments instead of moving production abroad.

## **10. Dow Corning Public Benefits**

Globe asserts that Dow Corning has failed to establish that its proposed subzone would result in significant public benefit.

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<sup>25</sup> Import Administration Public Hearing Transcript dated September 1, 2009, Page 127.

<sup>26</sup> PIERS is a registered trademark of UBM Global Trade. PIERS trade data is the standard reference on container trade for the maritime industry.

<sup>27</sup> Globe Specialty Metals Inc. Form 10-K filed 10/05/09 for the period ending 06/30/09, Page 3.

## Response:

Globe's opposition to Dow Corning's subzone application in general and its specific challenge to Dow Corning's strong demonstration of how this will serve the public interest is misplaced. Dow Corning employees value their jobs and their opportunities for prosperity as much as Globe employees. Further Globe and its employees' best chance for prosperity are closely linked to Dow Corning's success. Dow Corning has invested heavily in the U.S. and has high capital costs of investment and operations. The only way to sustain those investments and to ensure future viability is to be globally competitive. Dow Corning has a long history of demonstrated commitment to its U.S. employees and suppliers, especially Globe as most recently evidenced by its purchase of 49% of Globe's Alloy, West Virginia plant, announced November 5, 2009.<sup>28</sup> This investment secures long term employment for many Globe employees.

Globe in fact downplays its own interest in the FTZ program, having applied for and received subzone status in 1998. Globe distinguishes its pursuit of FTZ benefits on the basis that it never activated and used the subzone. However, according to the Foreign-Trade Zones Board Examiner's Report dated May 11, 1998, Globe intended to import ferrosilicon fines from a number of countries that were subject to antidumping duties.<sup>29</sup> Globe withdrew its request for inverted tariff benefits in April 1998 leaving, "*the focus of Globe's request...to use FTZ procedures for export activity.*"<sup>30</sup> Globe's approval included a specific export only restriction on treatment of goods subject to antidumping duties, which is the same restriction Dow Corning has agreed to voluntarily.

It is no coincidence that Globe decided it didn't need its subzone around the same time the ITC dismissed antidumping restrictions on certain imported ferrosilicon in 1999 due to a substantial majority of the domestic industry conspiring to fix prices.<sup>31</sup> Globe specifically was named by the ITC as withholding or misrepresenting essential information directly relevant to the Commission's statutory mandate: whether the domestic industry was materially injured by reason of subject imports.<sup>32</sup> By such conduct, Globe and other producers, "*significantly impeded, undermined, and compromised the integrity of the Commission's investigations.*"<sup>33</sup> In light of the material misrepresentations and omissions made by Globe and others, the ITC determined not to rely on

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<sup>28</sup> See attached release dated November 5, 2009.

<sup>29</sup> Foreign-Trade Zones Board Examiner's Report dated May 11, 1998 To Establish a Special-Purpose Foreign-Trade Subzone at the Globe Metallurgical, Inc. Plant in Beverly, Ohio (Docket 34-97), Page 3.

<sup>30</sup> *Id.* at 7.

<sup>31</sup> US ITC Publication 3218: Reconsideration of Investigations Nos. 303-TA-23, 731-TA-566-570, AND 731-TA-641 and Investigations No. 751-TA-21-27, Ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela, Page 10.

<sup>32</sup> *Id.* at 20.

<sup>33</sup> *Id.*

information these firms submitted.<sup>34</sup> Since by its own admission Globe never used its subzone for any other purposes, we can only surmise that Globe's primary purpose in pursuing the subzone to begin with was antidumping duty benefits. This conclusion is also supported by the U.S. Foreign-Trade Zones Board Examiner's Report on the case.<sup>35</sup>

Finally, Globe asserts: *"For them [Dow Corning] this is not about jobs. This is about lining shareholder pockets, period. For Globe, it's about jobs."*<sup>36</sup> This statement is completely unfounded. Globe is not an altruistic endeavor. Globe is a wholly owned subsidiary of GSM, which is a publicly traded company having completed its initial public offering on August 4, 2009. By its own admission GSM holds leading market shares in a majority of its products.<sup>37</sup> Globe is public, profitable and according to GSM's CEO Jeff Bradley, *"better positioned today for long-term profitable growth than at any time in our history."*<sup>38</sup> Its shareholders are the beneficiaries of its success, just as Dow Corning's shareholders benefit from Dow Corning's performance. Neither company could exist without its employees and both companies are significant U.S. employers.

#### Conclusion:

As explicitly stated in Dow Corning's application and most recently demonstrated by Dow Corning's purchase of 49% of Globe's Alloy, West Virginia plant, neither Globe nor its employees will be negatively impacted by Dow Corning's use of the FTZ Program. Dow Corning has solidified its commitment to secure long term supply from Globe affiliated plants in the U.S. However, Dow Corning and Globe employees stand to lose employment if Dow Corning cannot compete effectively in world markets. Since Globe and its employees are the only entities with standing related to the specific merits of this case and Globe and its employees will not be harmed, we ask the U.S. Foreign-Trade Zones Board to move forward with evaluating the strong public interest evidence in Dow Corning's case based on the U.S. investments, employment and exports truly at issue.

Dow Corning is not asking for approval for any *"new improper use of the program."*<sup>39</sup> Any user of the FTZ program, unless explicitly restricted otherwise, can admit product subject to antidumping duties into a FTZ without payment of antidumping

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<sup>34</sup> *Id.* at 23.

<sup>35</sup> Foreign-Trade Zones Board Examiner's Report dated May 11, 1998 To Establish a Special-Purpose Foreign-Trade Subzone at the Globe Metallurgical, Inc. Plant in Beverly, Ohio (Docket 34-97), Page 3.

<sup>36</sup> Import Administration Public Hearing Transcript dated September 1, 2009, Page 122, Statement by Alan Kestenbaum, Globe Metallurgical Inc.

<sup>37</sup> Globe Specialty Metals Inc. Form 10-K filed 10/05/09 for the period ending 06/30/09, Page 7.

<sup>38</sup> Press Release dated September 28, 2009, "Globe Specialty Metals Announces Fourth Quarter and Fiscal Year 2009 Results".

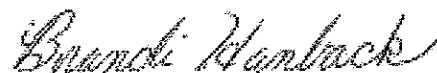
<sup>39</sup> Import Administration Public Hearing Transcript dated September 1, 2009, Page 124, Statement by William Kramer, Counsel for Globe Metallurgical Inc.

duties and defer such duty or eliminate antidumping duties on exports. The antidumping duty owed upon entry for consumption is protected under the privileged foreign status<sup>40</sup> regulation, thereby providing consistency with U.S. trade law that triggers antidumping duty upon entry for consumption. Further, Dow Corning has already agreed to accept a voluntary restriction limiting use of product subject to antidumping duty to exports only.

If the playing field is not level with foreign producers on the cost of the primary raw material, Dow Corning's U.S. manufacturing facilities cannot compete for foreign sales and this production will have to occur elsewhere. The greater concern long term is the impact on Dow Corning's U.S. manufacturing plants as more foreign plants come on line and can compete for global sales as well as undercut sales into the U.S.

We appreciate the efforts of the U.S. Foreign-Trade Zones Board staff to date to understand the industry facts and to base its decisions on sound balanced policy and reasoning. The U.S. Congress is fully capable of taking legislative action if, as Globe suggests, there was no intention to allow the U.S. Foreign-Trade Zones Program to provide public interest based relief for U.S. based manufacturers competing for exports. We welcome that debate when and if the time comes. In the meantime, we ask the U.S. Foreign-Trade Zones Board not to allow a challenge to its longstanding regulations and policy to stand in the way of an application that otherwise exemplifies the underlying principles and objectives of the U.S. Foreign-Trade Zones Program.

Respectfully submitted,



Brandi Hanback  
Managing Director

Attachment

cc: Ms. Elizabeth Whiteman, Case Examiner, U.S. Foreign-Trade Zones Board  
Michael Searcy, Global Strategic Procurement Manager, Dow Corning Corporation

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<sup>40</sup> 15 CFR §400.33(b)(2) requiring payment of antidumping duties on eligible imported products upon entry for consumption from a FTZ.



## **Globe Specialty Metals Closes Two Major Transactions With Dow Corning**

Nov 5, 2009 (GlobeNewswire via COMTEX News Network) --

- 1) Formation of a Joint Venture at Globe's Alloy, WV Silicon Metal Facility, One of the World's Largest
- 2) The Sale of Globe's Brazilian Operation to Dow Corning

Gross Proceeds of \$175 Million To be Used for Strategic Growth Initiatives

NEW YORK, Nov. 5, 2009 (GLOBE NEWSWIRE) -- Globe Specialty Metals, Inc. (Nasdaq:GSM) today announced the formation of a joint venture with Dow Corning at its silicon metal facility in Alloy, West Virginia and the sale of its Brazil operation to Dow Corning. Globe received \$175 million in cash from Dow Corning for its interests in the two facilities. "This strategic transaction strengthens and solidifies our Company's relationship with Dow Corning, a global leader in silicones and silicon-based technology and one of our largest customers," said Globe Chief Executive Officer, Jeff Bradley. "We expect the joint venture to facilitate an even higher level of cooperation with Dow Corning and look forward to working with them in the future."

"The decision to sell our Brazilian facility was driven by the difference in strategic value to Dow Corning versus the Company," Bradley added. "We are still very committed to the South American market and will continue to maintain a strong presence there with our Argentina plants."

"These acquisitions reflect Dow Corning's strategy of securing a sustainable and reliable supply of the raw material, to meet most efficiently the needs of our customers," said Robert Hansen, Dow Corning's executive vice president and general manager of Core Products. "Globe has been a long-time strategic supplier to Dow Corning. Our joint venture manufacturing arrangement with them puts us in a partnership with one of the world's leading silicon metal companies. We look forward to continuing and growing that relationship."

"The net proceeds from the sale provide significant additional capital to continue our aggressive growth and diversification strategy," said Bradley. "Globe has been a consistently profitable and solidly American-based manufacturing company with a history of making timely acquisitions at attractive prices. We are always evaluating strategic acquisitions with an eye on delivering long-term shareholder value."

### **Joint Venture**

Globe retains a 51% stake in the Alloy, WV plant, one of the world's largest silicon metal manufacturing facilities. As the managing partner, Globe will continue to operate the plant on behalf of the new venture, WVA Manufacturing LLC. Dow Corning, which owns the remaining 49%, and Globe will split production output proportional to their ownership interests.

### **Brazil Facility**

All customer contracts at the former Globe facility in Brazil will be honored. The Company anticipates no disruption or interruption in service to any customer.

### **About Globe Specialty Metals**

Globe Specialty Metals ([www.glbsm.com](http://www.glbsm.com)) is among the world's largest producers of silicon metal and silicon-based alloys, critical ingredients in a host of industrial and consumer products with growing markets. Customers include major silicone chemical, aluminum and steel manufacturers, auto companies and their suppliers, ductile iron foundries, manufacturers of photovoltaic solar cells and computer chips, and concrete producers. The Company is headquartered in New York, N.Y.

### **About Dow Corning**

Dow Corning ([www.dowcorning.com](http://www.dowcorning.com)) provides performance-enhancing solutions to serve the diverse needs of more than 25,000 customers worldwide. A global leader in silicones, silicon-based technology and innovation, Dow Corning offers more than 7,000 products and services via the company's Dow Corning(R) and XIAMETER(R) brands. Dow Corning is owned by The Dow Chemical Company and Corning, Incorporated. More than half of Dow Corning's annual sales are outside the United States.

#### Conference Call

We invite all interested persons to participate on a conference call at 9:15 am, Eastern Time. The dial-in number for the call is 866-766-7403. International callers should dial 678-805-0972. Please dial in at least five minutes prior to the call to register. The call may also be accessed via an audio webcast available on the GSM website at <http://investor.glbsm.com>. Click on the November 5, 2009 Conference Call link to access the call.

#### Forward-Looking Statements

This release contains "forward-looking statements" within the meaning of the U.S. Private Securities Litigation Reform Act of 1995. Forward-looking statements can be identified by words such as "anticipates," "intends," "plans," "seeks," "believes," "estimates," "expects" and similar references to future periods, or by the inclusion of forecasts or projections. Forward-looking statements are based on the current expectations and assumptions of Globe Specialty Metals, Inc. regarding its business, financial condition, the economy and other future conditions.

Because forward-looking statements relate to the future, by their nature, they are subject to inherent uncertainties, risks and changes in circumstances that are difficult to predict. The Company's actual results may differ materially from those contemplated by the forward-looking statements. The Company cautions you therefore that you should not rely on any of these forward-looking statements as statements of historical fact or as guarantees or assurances of future performance. Important factors that could cause actual results to differ materially from those in the forward-looking statements include regional, national or global political, economic, business, competitive, market and regulatory conditions including, among others, changes in metals prices; increases in the cost of raw materials or energy; competition in the metals and foundry industries; environmental and regulatory risks; ability to identify liabilities associated with acquired properties prior to their acquisition; ability to manage price and operational risks including industrial accidents and natural disasters; ability to manage foreign operations; changes in technology; and ability to acquire or renew permits and approvals.

Any forward-looking statement made by the Company or management in this release speaks only as of the date on which it or they make it. Factors or events that could cause the Company's actual results to differ may emerge from time to time, and it is not possible for the Company to predict all of them. The Company undertakes no obligation to publicly update any forward-looking statement, whether as a result of new information, future developments or otherwise, unless otherwise required to do so under the law or the rules of the NASDAQ Global Market.

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SOURCE: Globe Specialty Metals

CONTACT: Globe Specialty Metals, Inc.  
Jeff Bradley, Chief Executive Officer  
212-798-8122  
[jbradley@glbsm.com](mailto:jbradley@glbsm.com)  
Mal Appelbaum, Chief Financial Officer  
212-798-8123  
[mappelbaum@glbsm.com](mailto:mappelbaum@glbsm.com)

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